EXHIBIT C

HARRIS, WILTSHIRE & GRANNIS LLP

1200 EIGHTEENTH STREET, NW
WASHINGTON, DC 20036
TEL 202.730.1300 FAX 202.730.1301
WWW.HARRISWILTSHIRE.COM
ATTORNEYS AT LAW

May 4, 2007

HAND DELIVERED

MAY - 4 2007

DORSEY & WHITNEY L.L.P.
ANCHORAGE
at 3:45 M

BY HAND DELIVERY

Mr. Alex Starr
Chief
Market Disputes Resolution Division
Enforcement Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: *General Communication, Inc. v. Interior Telephone Company, Inc. Request for Inclusion on the Accelerated Docket*

Dear Mr. Starr:

General Communication, Inc. ("GCI") requests that its complaint against Interior Telephone Company, Inc. ("ITC"), once filed, be included on the accelerated docket pursuant to Section 1.730 of the Commission's rules.[1] GCI is prepared immediately to begin staff-supervised mediation under the accelerated docket rules, and respectfully requests that the staff convene such mediation without delay. ITC has wrongly denied GCI's request to exchange traffic and to effectuate related interconnection on an interim basis under 47 C.F.R. § 51.715, and GCI's complaint alleging ITC's violation of that rule meets the standard for inclusion on the accelerated docket.

I. Nature of the Dispute.

The Telecommunication Act of 1996 (the "1996 Act") ushered in a new era of competition in the local exchange market. By ensuring that competition is not unnecessarily delayed by incumbent refusals to exchange traffic during negotiation and

---

[1] A draft complaint is attached. The draft does not include all of the supporting documentation that would accompany the complaint when filed or the citations to such documentation. Where appropriate, citations to exhibits attached to the draft complaint shall be referenced herein as "Compl. Ex."

arbitration, Rule 51.715 ensures that consumers receive the Act's benefits at the earliest possible time. The Commission made this connection between the rule and its purpose explicit in the *Local Competition Order:* "the purpose of this interim termination requirement is to permit parties without existing interconnection agreements to enter the market expeditiously." *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996,* First Report and Order, 11 FCC Rcd. 15499, 16029 (¶ 1065) (1996) ("*Local Competition Order*").

This dispute presents a straightforward factual case for prompt enforcement of Rule 51.715. GCI has met all requirements necessary to request an interim interconnection arrangement for the transport and termination of non-access traffic within the Seward, Alaska exchange. GCI does not currently possess such an arrangement with ITC. *See* 47 C.F.R. § 51.715(a)(1). On October 19, 2006, GCI requested that ITC begin good faith negotiations toward a voluntary agreement for interconnection and services necessary for GCI to provide local telecommunications services in the ITC study area, which includes Seward. *See* Compl. Ex. 2, Letter from Dana L. Tindall, Senior Vice President, Legal Regulatory and Governmental Affairs, General Communication Inc., to TelAlaska d/b/a Interior Telephone Company, Inc. (October 19, 2006) at 1. On December 20, 2006, ITC entered into a written agreement with GCI to negotiate in good faith toward reaching such an agreement. *See* Compl. Ex. 3, Agreement between F.W. Hitz, III, Vice President, Regulatory Economics & Finance, General Communication, Inc. and Jack Rhyner, Chief Executive Officer, Interior Telephone Company, Inc. (December 20, 2006); 47 C.F.R. § 51.715(a)(2). On April 6, 2007, GCI filed a request with ITC pursuant to 47 C.F.R. § 51.715 that ITC commence exchanging local traffic with GCI on an interim basis under an interim interconnection arrangement as of June 18, 2007. *See* Compl. Ex. 4, Letter from F.W. Hitz III to D. Rhyner (April 6, 2007); 47 C.F.R. § 51.715(b).

By letter dated April 13, 2007, ITC stated its refusal to provide the requested interim interconnection arrangement and commence transport and termination of local traffic, *see* Compl. Ex. 5, Letter from D. Rhyner to F.W. Hitz (April 13, 2007), notwithstanding that GCI and ITC have existing facilities that could easily be used for the exchange of local traffic. *See* Compl. Ex. 4 at 2. GCI also indicated it would accept ITC's preferred pricing (or a number of alternatives) for the exchange of local traffic. *Id.* Indeed, in subsequent communications between the parties, ITC acknowledged that transport and termination rates are not at issue. *See* Compl. Ex. 9, Letter from D. Rhyner to F.W. Hitz (May 2, 2007). ITC also has acknowledged that the parties easily could "work something out" to effectuate interconnection for testing purposes, and it has outlined the relatively simple and straightforward processes by which this could be established. *See* Compl. Ex. 8 at 3, E-mail from D. Rhyner to R. Hitz III (Apr. 30, 2007); *id.* at 1, E-mail from D. Rhyner to R. Hitz III (May 2, 2007). But ITC has steadfastly refused GCI's request for an interim interconnection for the exchange of commercial traffic in the Seward until such time as the parties reach a final agreement for

interconnection for exchange of traffic to *the entire* ITC study area. Compl. Ex. 9; Compl. Ex. 8 at 1. Indeed, contrary to the very purpose of Rule 51.715, ITC has stated that it would allow for an interim exchange only "*If* [the parties] are able to reach a voluntary agreement on *all* terms and conditions." Compl. Ex. 8 at 1 (emphasis added).

If, on these facts, GCI is not entitled to exchange traffic with ITC on an interim basis and thereby enter the local exchange market, then there is no meaningful way for GCI or similarly situated carriers to enter local markets without completing the lengthy negotiation and arbitration process. ITC's position results in customers being deprived of the very competition Rule 51.715 was designed to facilitate and foster, and results in potentially quite significant damages to GCI.

A. Rule 51.715 Requires that ITC Establish Interim Interconnection and Traffic Exchange.

Rule 51.715 requires that "[u]pon receipt of a request ... an incumbent LEC *must, without unreasonable delay*, establish an interim arrangement for transport and termination of telecommunications traffic at symmetrical rates." 47 C.F.R. § 51.715(b) (emphasis added). In refusing GCI's request, ITC has argued that that "[t]he entire focus of the regulation ... is on interim pricing" (*see* Compl. Ex. 5, Letter from Donna Rhyner, ITC to Frederick W. Hitz, Vice President, GCI (Apr. 13, 2007)) and not to interconnection or traffic exchange generally. ITC's reading would, however, render the Rule a nullity.

To begin, the Rule by its terms applies only when the requesting carrier does not have an "existing interconnection arrangement that provides for the transport and termination of telecommunications traffic by the incumbent LEC." 47 C.F.R. § 51.715(a)(1). Thus, the Rule clearly contemplates (and, indeed is limited to) such situations in which the parties are *not* interconnected for the exchange of local traffic, but where such interconnection arrangement is *pending* negotiation (and, if necessary, arbitration) and state regulatory approval. ITC would place the cart before the horse by requiring a *final* negotiated or arbitrated and approved interconnection arrangement *as a precondition to* the requesting party obtaining *interim* interconnection and traffic exchange.

As the Commission itself has explained, Rule 51.715 addresses not just pricing, but the "transport and termination of traffic." *See Local Competition Order*, 11 FCC Rcd. at 16029 (¶ 1065) ("To promote the Act's goal of rapid competition in the local exchange, we order incumbent LECs upon request from new entrants *to provide transport and termination of traffic, on an interim basis* ....") (emphasis added). The Commission recognized that "some new entrants, regardless of their size, *that do not already have interconnection arrangements* with incumbent LECs may face delays in initiating service *solely because of the need to negotiate transport and termination*

arrangements with the incumbent LEC." *Id.* at 16032 (¶ 1068) (emphasis added). The Rule, as plainly worded and as explained by the Commission, is not limited to the establishment of rates,[2] nor is it conditioned upon an existing physical interconnection. It is designed to promote rapid competition by requiring *interim* interconnection for the purpose of initiating service. ITC's limited interpretation of the Rule defeats its underlying purpose.

At minimum, Rule 51.715 must require parties to effectuate interim interconnection and begin traffic exchange where, as here, the parties have existing interconnection facilities that could easily be repurposed to exchange local traffic. Any other reading of the rule would make it practically impossible for competing carriers to rely on Rule 51.715 to promptly enter local markets. Because the steps GCI and ITC must take to allow for the interim exchange of traffic are neither onerous nor unusual (as ITC has conceded), ITC's argument that Rule 51.715 does not require an interim interconnection arrangement here is misplaced.

ITC also argues that "47 C.F.R. § 51.715 cannot be read to require immediate interconnection where an underlying agreement does not exist because to do so would undercut" the timeframes established in 47 U.S.C. § 252 for negotiating and arbitrating an interconnection agreement. Compl. Ex. 5 at 3. Yet, contrary to ITC's assertion, the FCC's authority to adopt rules implementing the requirements of Section 252 is in no way limited by the establishment of timeframes for negotiation and arbitration, and the FCC has, in fact, adopted myriad rules implementing Section 252. Nothing in the language of the statute precludes adoption of rules that would ensure that competitors have an opportunity to interconnect and exchange traffic during negotiation and arbitration. Indeed, by facilitating competition and market entry, 47 C.F.R. § 51.715 furthers the aims of Section 252.[3]

---

[2] Rule 51.707 directly addresses the issue of interim prices for the transport and termination of telecommunications traffic pending adjudication of TELRIC rates. *See* 47 C.F.R. § 51.707. Because ITC's reading of Rule 51.715 ignores Rule 51.715's plain language and would render Rule 51.707 superfluous and duplicative, that reading is not reasonable.

[3] ITC, by way of footnote, argues that 47 C.F.R. § 51.715 was meant to apply only to the Bell Companies. *See* Compl. Ex. 5 at 2 n.1. The Commission, however, expressly rejected a request to exempt small and mid-sized incumbent LECs from the scope of 47 C.F.R. § 51.715. *See Local Competition Order*, 11 FCC Rcd. at 16031 (¶ 1068).

B. The Parties Could Use Existing Long-Distance Traffic Interconnection Facilities for the Exchange of Local Telecommunications Traffic on an Interim Basis.

The parties could quickly and easily interconnect in a manner that would permit the exchange of local telecommunications traffic on an interim basis. GCI and ITC have existing physical interconnection facilities for the exchange of long distance traffic which could be configured to allow for the immediate exchange of local traffic. A DS-3 facility, which GCI leases from ITC, runs between ITC's switch and GCI's point-of-presence in Seward. GCI could reallocate on an interim basis some of its capacity on this DS-3 to carry local interconnection traffic, provisioned as two one-way trunk groups over separate T-1 facilities. Thus, the parties, utilizing the existing facilities, would need only to load each others' NXX prefixes into their switches and to make routine programming changes necessary to point traffic to the designated trunks. Because ITC's switch is already LNP-capable, *see* Compl Ex. 5 at 3, no further steps should need to be taken to implement interim traffic exchange pursuant to Rule 51.715.[4]

II. GCI's Complaint Meets the Factors Outlined in 47 C.F.R. § 1.730(e) for Inclusion of the Accelerated Docket.

An analysis of each of the factors outlined in 47 C.F.R. § 1.730(e) strongly favors including GCI's complaint on the accelerated docket.[5]

First, GCI's complaint states a claim for ITC's violation of 47 C.F.R. § 51.715, a rule promulgated by the Commission to implement the Telecommunications Act of 1996. *See* 47 C.F.R. § 1.730(e)(4). Specifically, ITC has refused to establish an interim interconnection arrangement for the exchange of local telecommunications services as of June 18, 2007, despite GCI's request under 47 C.F.R. § 51.715 that they do so. ITC's violation of 47 C.F.R. § 51.715 plainly falls within the Commission's jurisdiction and is

---

[4] ITC's argument that the girth of the draft agreement proves the complexity of interconnection is belied by the fact that only four pages of the side-by-side draft address physical interconnection. For the most part, those pages simply reiterate the requirements of the rules and address the establishment of points of interconnection, general methods of physical interconnection, and the responsibility of each carrier to program its own switches to accomplish interconnection and traffic exchange, *see* Compl. Ex. 7, Draft Agreement §§ 7.1.1-7.1.3. No significant disputes have arisen in these sections that would in any way preclude implementation of an interim interconnection arrangement for Seward.

[5] 1.730(e)(1) addresses whether the parties have exhausted reasonable opportunities for settlement during the staff-supervised settlement discussions. Because the Commission has not yet commenced those discussions, this factor is not discussed here.

appropriate for this Commission's resolution because what is at issue here is ITC's obligation under this Commission's rules. Moreover, there currently is no proceeding pending before the Regulatory Commission of Alaska ("RCA") or any court that relates to ITC's obligations under 47 C.F.R. § 51.715, or the formation of the ITC/GCI interconnection agreement.

Second, inclusion on the accelerated docket is appropriate because ITC's refusal to provide interim transport and termination of telecommunications traffic under an interim interconnection arrangement will delay GCI's commencement of service in the Seward exchange; thus, resolution of the dispute will advance competition in the telecommunications market. *See* 47 C.F.R. 1.730(e)(2). Without such an interim interconnection arrangement for transport and termination, GCI cannot timely commence service in Seward because there would be no way for calls from its customers to reach ITC local service subscribers in Seward, nor for GCI's customers to receive calls from ITC local service subscribers in Seward. Pursuant to RCA regulations, GCI has provided ITC notice of its intent to commence service in Seward on August 1, 2007. *See* Compl. Ex. 10, Letter from Jennifer K.G. Robertson, GCI Tariffs and Licenses Manager to Regulatory Commission of Alaska (May 3, 2007). Unless an interim interconnection arrangement for transport and termination is in place by that date, GCI will not be able to commence service as noticed. In the absence of an interim interconnection arrangement for the transport and termination of local traffic, GCI's service launch in Seward would be delayed until negotiations between GCI and ITC regarding transport and termination rates have been completed or arbitrated, such rates have been approved by RCA, and ITC implements such agreement. *See Local Competition Order*, 11 FCC Rcd. at 16029 (¶ 1065). GCI's launch of local service competition in Seward would thus likely be delayed until January 2008, at the earliest. Such a delay is contrary to the FCC's expressly stated purpose in adopting 47 C.F.R. § 51.715, which was to eliminate "delays in initiating service solely because of the need to negotiate transport and termination arrangements with the incumbent LEC." *Id.*

Third, the issues raised in the Complaint are suited for decision under the constraints of the accelerated docket. *See* 47 C.F.R. § 1.730(e)(3). The complaint raises the discrete issue of whether ITC's refusal to establish the requested interim interconnection arrangement for the transport and termination of non-access traffic is in violation of 47 C.F.R. § 51.715. ITC's arguments in refusing to effectuate the interconnection are well-suited for resolution on the accelerated docket. ITC's first issue as to the applicability of 47 C.F.R. § 51.715 is a pure question of law, which can be decided by interpreting and applying the plain language of rule 51.715 and paragraphs 1065 through 1068 of the Commission's 1996 *Local Competition Order*. ITC's second claim that interconnection, even if mandated, cannot practicably be implemented, is well-suited to resolution through the accelerated docket's mini-trial process. GCI and ITC already are interconnected for the exchange of long distance traffic in the Seward calling area, and there are existing trunking facilities running between ITC's Seward switch and

GCI's point of interconnection in Seward. The issue of whether those facilities can be used for transport and termination, and the efforts necessary to do so, can easily be addressed based on parties' declarations or in a mini-trial. As such, resolution of the dispute is unlikely to require complex discovery. Moreover, the Commission need not make any damages determination now. In the first instance, if this complaint were to be resolved in time for GCI to commence service on August 1, 2007, as it has noticed the RCA, there would be no need for a damages determination. In any event, GCI is requesting that any necessary determination of damages be made in a separate proceeding as provided by 47 C.F.R. § 1.722(d).

Fourth, GCI respectfully submits that the very nature of this Complaint – namely, a request that ITC meet its legal obligations under an FCC rule during an *interim* time period – is a factor weighing heavily in favor of placing this complaint on the accelerated docket. *See* 47 C.F.R. 1.730(e)(6) (providing that Commission staff may consider "[s]uch other factors as [it], within its substantial discretion, may deem appropriate and conducive to the prompt and fair adjudication of complaint proceedings"). The sole purpose of Rule 51.715 is to permit requesting carriers to begin providing local service *prior to* the negotiation and, if necessary, arbitration of an interconnection agreement, if all that is needed is an interconnection arrangement for the transport and termination of local traffic. *Local Competition Order*, 11 FCC Rcd. at 16029 (¶ 1065). That purpose would be entirely frustrated if this complaint were to be adjudicated under the ordinary complaint process, which would not assure that a decision would be rendered prior to the RCA's approval of a final interconnection agreement. If GCI's complaint is not resolved on an accelerated basis and within the interim time period, ITC will have succeeded in thwarting the purpose of the regulation by avoiding the requirement that they provide interconnection during that interim period.

Fifth, inclusion of GCI's complaint on the accelerated docket does not result in any unfairness based on any "overwhelming disparity" between the parties' resources. *See* 47 C.F.R. § 1.730(e)(5). As explained by the Commission, this factor gives the staff discretion "to refuse a complaint proceeding where it appears that one party would be unreasonably limited in its ability effectively to conduct discovery or prepare its case because of an overwhelming resource advantage of the opposing party." *Implementation of the Telecommunications Act of 1996; Amendment of Rules Governing Procedures to Be Followed When Formal Complaints are Filed Against Common Carriers,* Second Report and Order, 13 FCC Rcd. 17018, 17029 (¶ 21) (1998) ("*Formal Complaints Second Report and Order*"). Here, ITC would suffer no such hardship if required to litigate and participate in the mini-trial before the Commission. Most significantly, ITC and its parent company, TelAlaska, Inc., have been, and are currently in connection with the GCI's interconnection negotiations with ITC as well as this request for an interim interconnection arrangement, represented by competent, national communications counsel, Dorsey & Whitney LLP, who have offices in Washington, D.C., and who "appear regularly before and interact with representatives of the Federal Communications

Commission, the National Telecommunications and Information Administration, the Universal Service Administrative Company, and Congressional oversight committees." *Available at* http://www.dorsey.com/locations/office_detail.aspx?FlashNavID=locationsall&officeid=3485003 (Dorsey & Whitney LLP's website detailing services provided at their Washington, D.C. office). Clearly, this is not one of those "very rare" situations contemplated by the Commission that would require rejection of the complaint under this factor. *Formal Complaints Second Report & Order*, 13 FCC Rcd. at 17029 (¶ 21) ("We expect such situations will be very rare....").

As recognized by the Commission in implementing the Accelerated Docket regulations, "even minor delays or restrictions in the interconnection process can represent a serious and damaging business impediment to competitive market entrants." *Formal Complaints Second Report and Order*, 13 FCC Rcd. at 17021 (¶ 3). Thus, in order to fulfill the purpose of the 1996 Act and ensure that Rule 51.715 is not robbed of any practical effect, the Commission should accept GCI's complaint into the accelerated docket and commence staff-supervised mediation.

A copy of this letter has been served by hand on counsel for ITC.

Should you have any questions, please do not hesitate to contact me at (202) 730-1320.

Respectfully submitted,

John T. Nakahata
Counsel for General Communication, Inc.

encl.

cc: Suzanne Tetreault, Enforcement Bureau, FCC
Heather Grahame, Dorsey & Whitney